

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CIVIL MINUTES

Date: January 20, 2023	Time: 57 minutes 1:02 p.m. to 1:59 p.m.	Judge: WILLIAM H. ORRICK
Case No.: 19-md-02913-WHO	Case Name: In Re: Juul Labs, Inc., Marketing, Sales Practices	

Attorneys for Plaintiffs: Dena Sharp, Sarah London, Dean Kawamoto, Ellen Relkin, Michael Weinkowitz, Matthew Schultz, and Jonathan Gdanski

Attorneys for Defendants: Renee Smith, John Massaro, Brian Stekloff, Peter Farrell, James Kramer, Mitchell Malachowski, Beth Wilkinson, Christopher Esbrook, and Michael Guzman

Deputy Clerk: Jean Davis

Court Reporter: Ruth Levine Ekhaus

PROCEEDINGS

(Additional counsel in attendance; only Lead Counsel or counsel who spoke at the Case Management Conference are identified.)

At 12:30 p.m. Lead plaintiff and defense counsel participated in an *in camera* video conference.

At 1:00 p.m. Case Management Conference conducted via videoconference.

Motion for Preliminary Approval of Class Settlement: The Court will preliminarily approve the Class Settlement as fair, reasonable, and adequate. The Notice Plan and selection of the Claims Administrator meet the standard for preliminary approval.

Altria has withdrawn its motion to stay and most of its objections to the Class Notice and Notice Plan, in light of the parties' meet and confer efforts and stipulation to continue the Class Trial dates. Altria's counsel shall submit a Word version of the stipulation (Dkt. No. 3755) to WHOpocand.uscourts.gov.

The parties shall continue to meet and confer to attempt to resolve any remaining disputes over the text of the Long Form or Short Form notices. Plaintiffs' counsel will review the text of the Proposed Preliminary Approval Order and scope of the release to determine whether any final adjustments should be made for enhanced findings in support of certification of the settlement class and limiting the scope of the release to economic loss claims other than antitrust claims. Revised stipulated notices, or redline documents showing the parties' final notice disputes, as

well as any revised Proposed Order Granting Preliminary Approval, shall be filed by January 27, 2023.

Motion to Lift Stay, Case No. 20-cv-03717-WHO *Breathe DC v. Juul Labs, Inc.* The Court agrees with counsel that the claims in this case are not implicated by the proposed Class Settlement. Lead Counsel may respond to the motion to lift the stay in this case by February 3, 2023. Breathe DC may file a response by February 10, 2023 and the motion will be addressed at the February 17, 2023 Case Management Conference.

Proposed Case Management Order No. 17: Argument of counsel heard regarding proposed CMO No. 17, including from objector Jonathan R. Gdanski of the Schlesinger Law Offices and from Altria. The Court finds it appropriate – given the stage of this MDL, the extensive discovery and motion practice conducted to date, the nature of the claims in this MDL, and the scope of the settlements reached to date – to adopt CMO 17 with the following adjustments. (i) Altria shall have access to the information provided by the Litigating Plaintiffs and New Plaintiffs; (ii) the parties shall meet and confer to agree on language requiring Litigating Plaintiffs and New Plaintiffs to identify the retail establishments where they purchased JUUL products; and (iii) the time periods that Litigating Plaintiffs and New Plaintiffs have to submit records/documents (in paragraphs 11, 13, 16, 18, 40, 41) are extended by 30 days. Counsel for JLI shall submit to the Court a revised Proposed CMO No. 17 including these adjustments by January 27, 2023.

Exemplar Objections to Recommendations of Special Master Stephen G. Larson (Dkt. Nos. 3594, 3595, 3617, and 3618): Argument of counsel heard.

On plaintiffs' objections, for the reasons discussed during the conference, the Court **OVERRULES** Judge Larson on each matter presented, except that what will be allowed regarding the Master Settlement Agreement (Objection IV) depends on the amount of historical information regarding the MSA admitted at trial.

On defendants' objections, for the reasons discussed during the conference, the Court sustains Judge Larson's rulings on each of the matters plaintiffs' addressed in their response.

The rulings based on notice may be revisited in limine to allow the parties to brief the appropriate scope of notice under the RICO claims.

Trial Time for SFUSD Trial. Each side will be allowed 40 hours, exclusive of voir dire and Phase III (abatement).

Motions to Dismiss. JLI's motions to dismiss for failure to comply with CMOs 8 or 13 [Dkt. Nos. 3672 and 3679] are **GRANTED**. Plaintiffs covered by those motions may submit their Plaintiff Fact Sheets up until February 3, 2023. On February 6, 2023, JLI shall submit a consolidated proposed order dismissing the cases where fact sheets remain outstanding as of that date.